

RECEIVED  
USDC, WESTERN DISTRICT OF LA.  
TONY R. MOORE, CLERK  
DATE 11/9/09  
BY [Signature]

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF LOUISIANA

MONROE DIVISION

PATRICK HALL  
LA. DOC #534084  
VS.

CIVIL ACTION NO. 09-1476

SECTION P

JUDGE ROBERT G. JAMES

MOREHOUSE PARISH DETENTION  
CENTER, ET AL.

MAG. JUDGE KAREN L. HAYES

**RULING**

Petitioner Patrick Hall filed this civil rights Complaint pursuant to 18 U.S.C. § 1983, on the bases that Defendants erroneously accused him of being homosexual and then discriminated against him because of his purported sexual orientation. On October 9, 2009, Magistrate Judge Karen L. Hayes issued a Report and Recommendation [Doc. No. 4], recommending that the Court dismiss Petitioner's Complaint as frivolous.

Having reviewed the record, including Petitioner's objections, the Court agrees with and ADOPTS the Report and Recommendation of Magistrate Judge Hayes with one clarification: On page 7, the Report and Recommendation quotes *Johnson v. Johnson*, 385 F.3d 503, 532 (5th Cir. 2004), for the proposition that neither the Supreme Court nor the Fifth Circuit Court of Appeals has recognized sexual orientation as a protected group. However, the Report and Recommendation does not provide the complete quotation:

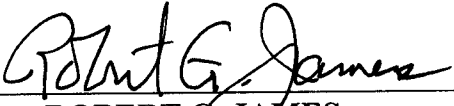
Neither the Supreme Court nor this court has recognized sexual orientation as a suspect classification [or protected group]; nevertheless, a state violates the Equal

Protection Clause if it disadvantages homosexuals for reasons lacking any rational relationship to legitimate governmental aims.

*Id.* (citing *Romer v. Evans*, 517 U.S. 620, 631-32 (1996)).

Nevertheless, in contrast to the situation in *Johnson*, there is no allegation here that Defendants were attempting to afford Petitioner less protection than heterosexual prisoners, and the Court agrees with Magistrate Judge Hays that Petitioner's placement in a bunk that was more easily observed is at least arguably rationally related to a legitimate penological interest. Thus, the Court agrees with Magistrate Judge Hayes that Petitioner has failed to state an equal protection violation, and his Petition should be dismissed with prejudice.

MONROE, LOUISIANA, this 6 day of November, 2009.

  
\_\_\_\_\_  
ROBERT G. JAMES  
UNITED STATES DISTRICT JUDGE